

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

A.O.NO.1044 OF 1996

Kokila Manohar Bhavsar
and Anr.

.. Appellants

vs.

Sulochana Vasant Bhavsar
and Ors.

.. Respondents

Vinod V. Savji i/b. P.b.Shah, Advocate for the
Appellants.

None for the Respondent.

CORAM : A.S.OKA, J.

DATED : 1st February, 2005.

P.C. :

1. Challenge in this Appeal from Order is to the judgment and order dated 12.7.1996 passed below application at exhibit 28. Perusal of the application at exhibit 28 shows that the prayer made therein is covered by neither Order 39 nor Order 38 of the Code of Civil Procedure, 1908. The prayer made in the application is for directing the defendant to furnish security. From the averments made in the said application it is

clear

that the plaintiffs were not seeking to invoke power under Rule 5 of Order 38 of the said code.

2. When these facts were brought to the notice of the learned Counsel appearing for the appellants, he could not satisfy me that Appeal from Order was maintainable against the order. Hence the appeal is dismissed as not maintainable. There will be no order as to costs.

(A.S.Oka, J.)